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Partners, LLC

UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA

PHOENIX ENTERTAINMENT  
PARTNERS, LLC,

Plaintiff,

vs.

STEVEN WILLIAMSON, an  
individual and ROBERT CHARLES  
ROSS, an individual,

Defendants

Case No.: 2:15-cv-8899

COMPLAINT

REQUEST FOR JURY TRIAL  
(F.R.C.P. Rule 38)

The Plaintiff, Phoenix Entertainment Partners, LLC (“PEP”), by its undersigned counsel, hereby complains of Defendant Steven Williamson (“Williamson”) and Defendant Robert Charles Ross (“Ross”) and for its Complaint hereby alleges as follows:

**JURISDICTION AND VENUE**

1. This is an action for trademark infringement and unfair competition arising under 15 U.S.C. §§ 1114 and 1125. This Court has exclusive jurisdiction over the subject matter of this action pursuant to 28 U.S.C. § 1331, in that this is a civil

1 action arising under the laws of the United States.

2 2. This Court further has jurisdiction pursuant to 28 U.S.C § 1338(a), in that  
3 this civil action arises under an Act of Congress relating to trademarks, and, as to  
4 PEP's Lanham Act unfair competition claim, pursuant to 28 U.S.C. § 1338(b), in  
5 that the claim is joined with a substantial and related claim under the trademark  
6 laws of the United States.

7 3. This Court has supplemental jurisdiction over the subject matter of PEP's  
8 state law claim pursuant to 28 U.S.C. § 1367(a), in that the claim is so related to  
9 PEP's federal claims that they form part of the same case or controversy.

10 4. Venue is proper in this judicial district pursuant to 28 U.S.C. § 1391(b),  
11 because Defendant Williamson resides in the State of California and the United  
12 States District Court for the Central District of California and Defendant Ross  
13 resides in the State of California and the United States District Court for the  
14 Central District of California.

15 5. This Court has personal jurisdiction over each Defendant, in that Defendant  
16 Williamson resides in this State and federal judicial district and Defendant Ross  
17 resides in this State and federal judicial district and all Defendants conduct  
18 significant business here, and in that the acts of which the Defendants stand  
19 accused were undertaken in this State and federal judicial district.

20 **THE PLAINTIFF**

21 6. Plaintiff PEP is a North Carolina LLC having its principal place of business  
22 in Pineville, North Carolina.

23 **THE DEFENDANTS**

24 7. Upon information and belief, Defendant Steven Williamson is a California  
25 resident who resides in Azusa, California. Defendant Williamson operates a  
26 professional karaoke and DJ service under the name "A Mobile Party."

27 8. Upon information and belief, Defendant Robert Charles Ross is a resident of  
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1 California and is the owner of a bar and restaurant called the “Gem City Grill” in  
2 Monrovia, CA. The Gem City Grill regularly provides Karaoke entertainment to  
3 its customers.

#### 4 **BACKGROUND FACTS**

5 9. Karaoke is a popular form of participatory entertainment commonly found in  
6 bars and restaurants and other types of venues throughout the United States.

7 10. The basic premise of a karaoke show is that the entity hosting the  
8 show provides patrons with access to a sound system and specially prepared  
9 karaoke accompaniment tracks, so that individual patrons may perform for the  
10 crowd.

11 11. Generally, a “karaoke accompaniment track” is a re-recorded version  
12 of a popular song without the lead vocals in a specialized format that includes a  
13 graphical component containing a lyric display, cueing information, and other  
14 information. The graphical component is synchronized to the music and is  
15 displayed to the patron who is performing and, typically, to the crowd as well.

16 12. Venues that offer karaoke entertainment do so primarily as a free  
17 service, but with the commercial purpose of enticing patrons to come to their  
18 establishments and purchase food and beverages.

19 13. The purchase and consumption of alcoholic beverages in connection  
20 with karaoke shows is particularly encouraged to enable patrons to overcome  
21 inhibitions against singing in public.

22 14. PEP is the owner of SOUND CHOICE, a well-known and leading  
23 brand of karaoke accompaniment tracks that is particularly well known to  
24 commercial karaoke operations including bars, restaurants, and other venues as  
25 described above.

26 15. PEP has succeeded Slep-Tone Entertainment Corporation (“Slep-  
27 Tone”), by assignment, in all interest in the SOUND CHOICE brand, including all  
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1 trademark rights in SOUND CHOICE.

2 16. Over the course of nearly three decades in business, Slep-Tone re-  
3 recorded and released in excess of 16,500 SOUND CHOICE-branded popular  
4 songs on special compact discs known as CD+G (“compact disc plus graphics”)  
5 discs and, more recently, a subset of that catalog in another common karaoke  
6 format, MP3+G (“MP3 plus graphics”).

7 17. SOUND CHOICE-branded karaoke tracks are wildly popular among  
8 karaoke entertainment providers, patrons, and home consumers. According to  
9 some estimates, more than half of all accompaniment tracks played at karaoke  
10 shows in the United States originated from Slep-Tone’s recordings.

11 18. The popularity of SOUND CHOICE karaoke tracks derives from the  
12 market’s perception that the recordings are usually the most faithful to the sound of  
13 the original recording artist, a characteristic highly valued by karaoke singers.

14 19. SOUND CHOICE karaoke tracks are also perceived by the market as  
15 providing highly accurate singing cues as part of the video display, a characteristic  
16 that is also highly valued by karaoke singers.

17 20. Slep-Tone and its successor PEP have released their karaoke tracks  
18 for commercial users only on compact discs<sup>1</sup> and not on any other form of carrier  
19 (such as computer hard drives or through internet downloads).

20 21. Over time, however, it has become technologically possible to create  
21 karaoke accompaniment tracks, using the SOUND CHOICE CD-based tracks as a  
22 template, for storage on alternative media, such as computer hard drives.

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23  
24  
25 <sup>1</sup> In the beginning, Slep-Tone released its karaoke tracks on cassette tapes as well,  
26 but that technology was focused on the home consumer and has since become fully  
27 obsolete.  
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1           22.       In most cases, the creation of such non-original tracks results in an  
2 imitation of a SOUND CHOICE track, which imitation is inferior to the original  
3 because of digital compression of the data as the format is converted from native  
4 CD+G audio and graphics to compressed audio and graphics.

5           23.       In a typical bar or restaurant environment, because the imitation tracks  
6 still bear the SOUND CHOICE trademarks and use the protectable trade dress,  
7 when the tracks are used, the SOUND CHOICE trademarks and trade dress are  
8 broadcast, published, and advertised to the general public or specific market  
9 segment to advertise the establishment's goods, products or services for the  
10 purpose of attracting customers or supporters. As a result, the bar or restaurant  
11 infringes the trademarks and trade dress when it advertises and promotes karaoke  
12 services which infringe the trademarks and trade dress.

13           24.       The process outlined above is known as "media-shifting," because the  
14 information is being copied or shifted from one medium to another, and "format-  
15 shifting," because the information is being copied or shifted from one format to  
16 another.

17           25.       Media-shifting and format-shifting are undertaken for a number of  
18 purposes, some reasonable and others illicit.

19           26.       Users of karaoke accompaniment tracks usually find that the use of  
20 media-shifted tracks provides them with greater ease of use of the content, which  
21 can be stored on a hard drive and accessed quickly without having to insert discs  
22 into a player, and can protect the user's discs from excessive wear, damage, loss,  
23 or theft.

24           27.       Prior to 2007, Slep-Tone prohibited media-shifting and format-  
25 shifting of its products entirely, and its products carried warnings against the  
26 unauthorized duplication that media-shifting and format-shifting require.

27           28.       In order to enable legitimate owners of original discs the convenience  
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1 of format-shifting and media-shifting, starting in 2009, Slep-Tone instituted a  
2 Media Shifting Policy (“MSP”)—which PEP has continued—whereby legitimate  
3 owners could gain permission for media-shifting and format-shifting.

4 29. That policy requires disc owners to notify Slep-Tone of their intent to  
5 media-shift, or that they have completed a media-shift.

6 30. That policy also requires disc owners to maintain a condition known  
7 as “1-to-1 correspondence” between the discs they own and the media (such as  
8 hard drives) to which they media-shift.

9 31. For example, a disc owner who wants to have two hard drives with the  
10 same media-shifted content, the disc owner must own two original discs  
11 representing that content.

12 32. The policy also requires disc owners to undergo an audit of their  
13 holdings to verify 1-to-1 correspondence and the integrity of the media-shifted  
14 tracks.

15 33. The policy also requires disc owners to maintain ownership and  
16 possession of the discs and to put discs from which content has been media-shifted  
17 “on the shelf,” i.e., out of use of any type while the content is media-shifted.

18 34. Unfortunately, easy electronic duplication of media-shifted tracks has  
19 resulted in the widespread distribution of media-shifted karaoke tracks  
20 unaccompanied by the ownership of any discs at all.

21 35. This distribution allows karaoke accompaniment track users to gain  
22 the benefit of what appear to be Slep-Tone karaoke tracks without paying for  
23 original discs.

24 36. Karaoke accompaniment track users have used the available  
25 technology to place the duplicated contents of one purchased disc on two or more  
26 computer systems for simultaneous use; to place the duplicated contents of their  
27 patrons’ discs on their own computer hard drives at a show; to “swap” song files  
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1 with other users; to obtain and share karaoke tracks via file-sharing sites and  
 2 torrents; to purchase computer hard drives that were pre-loaded with duplicates of  
 3 karaoke tracks; and to sell any original media they might have owned in the  
 4 secondary market once they have media-shifted.

5 37. None of these activities are conducted with PEP's authorization, and  
 6 none of these activities are accompanied by any sort of payment to PEP.

7 38. Instead, these activities have driven the demand for original discs  
 8 down to uneconomically feasible levels, because it has become relatively easy to  
 9 obtain illicitly, for free or at a nominal cost, products that if legitimate would cost  
 10 tens of thousands of dollars when purchased at retail.

### 11 **THE RIGHTS OF THE PLAINTIFF**

12 39. PEP is the owner of U.S. Trademark Registration No. 1,923,448,  
 13 issued October 3, 1995, and renewed once, for the trademark SOUND CHOICE,  
 14 for "pre-recorded magnetic audio cassette tapes and compact discs containing  
 15 musical compositions and compact discs containing video related to musical  
 16 compositions."

17 40. PEP is the owner of U.S. Trademark Registration No. 2,000,725,  
 18 issued September 17, 1996, and renewed once, for a display trademark as follows:



22 for "pre-recorded magnetic audio cassette tapes and compact discs containing  
 23 musical compositions and compact discs containing video related to musical  
 24 compositions."

25 41. PEP and its predecessor have, for the entire time its marks identified  
 26 above ("the SOUND CHOICE Marks") have been federally registered, provided  
 27 the public, including the Defendants with notice of those federal registrations  
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1 through the consistent display of the symbol ® with its marks as used.

2 42. PEP is the owner of California Trademark Registration No. 115195,  
3 issued August 8, 2013, for a display trademark as follows:



7 for “Compact Disc plus graphics (CD+G); karaoke/DVD multi-format player”  
8 in class 9.

9 43. PEP is the owner of California Trademark Registration No. 68690, issued  
10 August 8, 2013, for a display trademark as follows:



14 for “Compact Disc plus graphics (CD+G); karaoke/DVD multi-format player”  
15 in class 41.

16 44. PEP is the owner of distinctive and protectable trade dress associated  
17 with its graphical displays (“the Trade Dress”). This distinctive and protectable  
18 trade dress includes, at a minimum, (a) the use of a particular typeface, style, and  
19 visual arrangement in displaying the lyrics; (b) the SOUND CHOICE Marks; and  
20 (c) the use of particular styles in displaying entry cues for singers, namely a series  
21 of vanishing rectangles to indicate the cue.

22 45. PEP and its predecessor-in-interest have used its trade dress  
23 continuously and substantially exclusively for a period of decades.

24 46. The individual and collected elements of the Trade Dress have  
25 acquired secondary meaning as an indicator of PEP and its predecessor as a source,  
26 effectively functioning as a visual trademark.

27 47. The aforementioned trade dress serves to distinguish PEP’s tracks  
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1 from the tracks of their competitors, such that persons who are even minimally  
2 frequent consumers of karaoke entertainment services such as those provided by  
3 Williamson and Ross are capable of identifying a particular karaoke track as  
4 originating with PEP simply by examining the Trade Dress or any significant  
5 portion thereof, whether or not the SOUND CHOICE Marks are also displayed.

6 48. The elements of the Trade Dress represent specific design choices by  
7 Slep-Tone; they are but three of many ways to convey the information necessary to  
8 permit a karaoke singer to be appropriately supported in his or her performance.

9 49. No competitor of PEP is required to use any element of the Trade  
10 Dress to accomplish the lyric cueing, and indeed all of the Plaintiff's known  
11 competitors are known to use other trade dress in accomplishing the lyric cueing.

#### 12 **ACTIVITIES OF DEFENDANT WILLIAMSON**

13 50. Upon information and belief, Williamson provides karaoke services to  
14 venues in California, principally concentrated in Los Angeles County, including  
15 Gem City Grille operated by Defendant Ross.

16 51. On information and belief, in order to provide services, rather than  
17 using original karaoke discs that he possesses (if he indeed possesses such discs),  
18 Williamson relies upon one or more computer hard drives that store files  
19 representing karaoke accompaniment tracks.

20 52. On information and belief, Williamson relies upon at least one such  
21 computer hard drive described in paragraph 51 herein.

22 53. On information and belief, Williamson created, or directed another to  
23 create, or otherwise acquired from a third party the files that are stored on the  
24 computer hard drive.

25 54. On information and belief, Williamson does not maintain a 1:1  
26 correspondence relationship between the hard drives and original discs he might  
27 have lawfully acquired, if he indeed has any original discs.

1           55.       PEP or Slep-Tone did not authorize, cause, control, or know about the  
2 creation of the files stored on Williamson's computer hard drives at the time those  
3 files were so stored.

4           56.       On information and belief, many of the files stored on Williamson's  
5 computer hard drives are representative of karaoke tracks originally created by  
6 PEP or its predecessor Slep-Tone and are marked with the SOUND CHOICE  
7 Marks.

8           57.       When played as intended using appropriate software, those files cause  
9 the SOUND CHOICE Marks and the Trade Dress to be displayed as part of the  
10 associated video component of the karaoke tracks they represent.

11          58.       Neither PEP nor Slep-Tone authorized Williamson to create or use  
12 karaoke accompaniment tracks or computer files representative of karaoke  
13 accompaniment tracks that bear the SOUND CHOICE Marks or the Trade Dress.

14          59.       As such, the placement of the SOUND CHOICE Marks and the Trade  
15 Dress upon Williamson's computer files is a false designation of the origin of those  
16 computer files.

17          60.       At all times relevant to the causes of action stated herein, Williamson  
18 has known that the creation and use of karaoke accompaniment tracks or computer  
19 files representative of karaoke accompaniment tracks that bear the SOUND  
20 CHOICE Marks and/or the Trade Dress is not authorized.

21          61.       Williamson's files, which function as karaoke accompaniment tracks,  
22 are also counterfeits of genuine SOUND CHOICE-branded tracks.

23          62.       A patron or unwitting customer of Williamson's, when confronted  
24 with the display of the SOUND CHOICE Marks and the Trade Dress at one of  
25 Williamson's shows, is likely to be confused into believing, falsely, that Slep-Tone  
26 or PEP created the tracks in use or authorized their creation.

27          63.       Williamson's use of the computer files representative of karaoke  
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1 accompaniment tracks is commercial in nature because he is paid to provide access  
2 to and play those computer files and tracks at karaoke shows.

3 64. Additionally, even if a particular counterfeit track is not played at a  
4 given show, the act of making that track available for play at a show is a  
5 commercial act for which Williamson is compensated and which inure to his  
6 benefit.

7 65. On information and belief, Williamson's piracy of accompaniment  
8 tracks is not limited to SOUND CHOICE tracks, but extends to the piracy of  
9 numerous other manufacturers' tracks as well, on the same terms as above.

10 66. On information and belief, the SOUND CHOICE Marks were  
11 displayed on video monitors during various songs played by Williamson.

12 67. PEP obtained photographs and videos of displays of the SOUND  
13 CHOICE Marks.

14 68. On information and belief, Williamson has not complied with PEP's  
15 MSP, and therefore the use of the SOUND CHOICE Marks were not authorized  
16 proper use.

#### 17 **ACTIVITIES OF DEFENDANT ROSS**

18 69. Ross hired Williamson to provide commercial karaoke services at his  
19 restaurant.

20 70. Ross has the right and ability to control whether its contractors use  
21 authentic or counterfeit materials to provide services.

22 71. On or about July 9, 2015, PEP or its representatives informed Ross by  
23 letter of the infringing and counterfeit character of Ross' contractor's karaoke  
24 accompaniment tracks. The letter offered Ross the opportunity to enter into its  
25 Verified Compliance Safe Harbor Program, which is a free program that protects  
26 venues from liability for the acts of its contractors in exchange for requiring its  
27 contractors to provide information about their karaoke systems to enable PEP to  
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1 assess whether those contractors are operating legally.

2 72. PEP also provides a certification program to karaoke operators as a  
3 means by which venues can determine, without significant inquiry, whether the  
4 karaoke operator they wish to hire is using authentic materials.

5 73. As a result of PEP's efforts, Ross has actual knowledge of the  
6 infringing and counterfeit nature of Williamson's karaoke materials.

7 74. Despite that knowledge, Ross refused to terminate Williamson's  
8 services.

9 75. Despite that knowledge, Ross continued to receive a financial benefit  
10 from the provision of infringing karaoke services at their establishment by  
11 Williamson, through the attraction of paying patrons to their establishment.

12 76. As such, Ross operated in actual or apparent partnership with  
13 Williamson, in a symbiotic relationship from which both benefit.

14 77. The availability of karaoke shows has been promoted at Ross' facility  
15 and, through the display of the Sound Choice Marks while the services were being  
16 provided, falsely advertised its use of genuine Sound Choice karaoke tracks.

17 78. Ross is liable for the acts of trademark infringement directly engaged  
18 in by Williamson on their respective premises or for their benefit.

### 19 **DAMAGES**

20 79. Williamson's unauthorized use of PEP's trademarks has damaged  
21 PEP. Williamson has enjoyed years of revenues attributable in substantial part to  
22 its use of counterfeit SOUND CHOICE-branded karaoke tracks to provide karaoke  
23 services for money.

24 80. Williamson's illicit activities have also allowed him to compete  
25 unfairly against PEP's legitimate customers by lowering his cost of doing business  
26 through piracy of the music materials he uses.

27 81. Those illicit activities exerted illegitimate and unfair pressure upon  
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1 the market for karaoke services in the areas in which Williamson operates by  
 2 helping to crowd higher-cost but legitimate operators out of the market.

3 82. Williamson's acts deprived PEP of revenue by discouraging  
 4 legitimate operators from investing in legitimate SOUND CHOICE-branded  
 5 products.

6 83. Ross' unauthorized use of and benefit from the use of the SOUND  
 7 CHOICE Marks have damaged PEP both in the aggregate and individually.

8 84. The Defendants have damaged PEP in an amount of at least \$100,000.

9 85. Moreover, by exerting illegitimate and unfair pressure upon the  
 10 market for karaoke services in this State and judicial district through the use of  
 11 pirated material belonging to PEP and to other manufacturers, the Defendants have  
 12 cost PEP in excess of \$100,000 in revenue from legitimate sources crowded out of  
 13 the market by the Defendants' piracy.

14  
 15 **FIRST CLAIM FOR RELIEF**  
 16 **TRADEMARK AND TRADE DRESS INFRINGEMENT**  
 17 **AGAINST DEFENDANT WILLIAMSON**

18 86. PEP repeats and incorporates by reference herein its allegations  
 19 contained in the above paragraphs of this Complaint.

20 87. Williamson used and knowingly directly benefited from the use of a  
 21 reproduction, counterfeit, or copy of the SOUND CHOICE Marks or the Trade  
 22 Dress in connection with the provision of services including karaoke services, by  
 23 manufacturing or acquiring the reproduction, counterfeit, or copy of the SOUND  
 24 CHOICE Marks or the Trade Dress, and by displaying the reproduction,  
 25 counterfeit, or copy of the SOUND CHOICE Marks or the Trade Dress during the  
 26 provision of those services.

27 88. Williamson's use of the SOUND CHOICE Marks was "in commerce"  
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1 within the meaning of the Trademark Act of 1946 as amended.

2 89. PEP did not license Williamson to make, acquire, or use  
3 reproductions, counterfeits, or copies, or to use the SOUND CHOICE Marks in  
4 connection with the services provided at their venue(s).

5 90. Use of the SOUND CHOICE Marks in the manner attributable to  
6 Williamson is likely to cause confusion, or to cause mistake, or to deceive  
7 customers at the venues in which he performs into believing that the services those  
8 customers are receiving are being provided with the authorization of PEP using  
9 bona fide, legitimate, authorized karaoke accompaniment tracks.

10 91. Williamson's acts were willful and knowing.

11 92. PEP has been damaged by infringing activities of Williamson.

12 93. Unless enjoined by the Court, Williamson's infringing activities as  
13 described above will continue unabated and will continue to cause harm to PEP.

14  
15 **SECOND CLAIM FOR RELIEF**  
16 **UNFAIR COMPETITION UNDER 15 U.S.C. § 1125(a)**  
17 **AGAINST DEFENDANT WILLIAMSON**  
18

19 94. PEP repeats and incorporates by reference herein its allegations  
20 contained in the above paragraphs of this Complaint.

21 95. On each occasion when Williamson caused or permitted a SOUND  
22 CHOICE-branded accompaniment track to be played during a karaoke show,  
23 Williamson caused or permitted the display of the SOUND CHOICE Marks in  
24 connection with Williamson's karaoke entertainment services.

25 96. The display of the SOUND CHOICE Marks is likely to cause  
26 confusion, or to cause mistake, or to deceive those present during the display, in  
27 that those present are likely to be deceived into believing, falsely, that PEP  
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1 sponsored or approved Williamson's services and commercial activities.

2 97. The display of the SOUND CHOICE Marks is also likely to cause  
3 confusion, or to cause mistake, or to deceive those present during the display, in  
4 that those present are likely to be deceived into believing, falsely, that the works  
5 being performed were sold by PEP and purchased by Williamson for use in  
6 providing karaoke entertainment services.

7 98. Williamson's use of the SOUND CHOICE Marks in this fashion  
8 would have inured to the benefit of PEP if Williamson had legitimately acquired  
9 genuine SOUND CHOICE discs instead of counterfeiting them or acquiring  
10 counterfeit copies, in that PEP would have received revenue from such sales.

11 99. Because PEP has been denied this revenue, it has been damaged by  
12 Williamson's uses.

13 100. On each occasion when Williamson displayed an accompaniment  
14 track pirated from another manufacturer to be played during a karaoke show,  
15 Williamson caused the display of the words, names, and symbols of the other  
16 manufacturer in connection with Williamson's karaoke services.

17 101. The display of these false designations of origin is likely to cause  
18 confusion, or to cause mistake, or to deceive those present during the display, in  
19 that those present are likely to be deceived into believing, falsely, that the pirated  
20 tracks are legitimate, authorized, and authentic materials that Williamson acquired  
21 in a legitimate manner.

22 102. The display of the false designations of origin is also likely to cause  
23 confusion, or to cause mistake, or to deceive those present during the display, in  
24 that those present are likely to be deceived into believing, falsely, that the works  
25 being performed were sold by those manufacturers and purchased by Williamson.

26 103. Williamson's use of the false designations of origin in this fashion  
27 damages PEP by enabling Williamson to provide karaoke entertainment services at  
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1 a lower cost than persons who acquire those materials legitimately, including  
2 PEP's legitimate customers.

3 104. The consequential denial of revenue from a legitimate market for  
4 PEP's customers' services prevents PEP's customers from making purchases of  
5 material from PEP and is thus a denial of revenue to PEP.

6 105. Because PEP has been denied this revenue, it has been damaged by  
7 Williamson's false designations of origin relating to other manufacturers.

8 106. Unless enjoined by the Court, Williamson's unfair competition  
9 activities as described above will continue unabated and will continue to cause  
10 harm to PEP.

11  
12 **THIRD CLAIM FOR RELIEF**  
13 **CALIFORNIA DECEPTIVE TRADE PRACTICES ACT**  
14 **AGAINST DEFENDANT WILLIAMSON**  
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16 107. PEP repeats and incorporates by reference herein its allegations  
17 contained in the above paragraphs of this Complaint.

18 108. Williamson used and knowingly directly benefited from the use of a  
19 reproduction, counterfeit, or copy of the SOUND CHOICE Marks or the Trade  
20 Dress in connection with the provision of services including karaoke services, by  
21 manufacturing or acquiring the reproduction, counterfeit, or copy of the SOUND  
22 CHOICE Marks or the Trade Dress, and by displaying the reproduction,  
23 counterfeit, or copy of the SOUND CHOICE Marks or the Trade Dress during the  
24 provision of those services.

25 109. Williamson's acts of infringement occurred during the conduct of  
26 trade or commerce, from which Williamson derived an economic benefit.

27 110. Williamson's acts of infringement constitute unfair or deceptive acts  
28



1 or practices within the meaning of California Bus. & Prof. Code §17200, et seq.

2 111. Williamson's acts of infringement cause likelihood of confusion or of  
3 misunderstanding as to affiliation, connection, or association with or certification  
4 by PEP.

5 112. As a direct and proximate result of each of Williamson's acts of  
6 infringement PEP has suffered a pecuniary loss, including the loss of revenue  
7 associated with sales or distribution of compact discs to karaoke jockeys,  
8 commensurate with the demand for the contents of those discs, which revenue  
9 would have been received but for Williamson's acts in creating or acquiring  
10 counterfeits of SOUND CHOICE-branded accompaniment tracks.

11 113. As such, PEP has been damaged and is likely to be further damaged  
12 by a deceptive trade practice of Williamson within the meaning of California Bus.  
13 & Prof. Code §17200, et seq. Unless enjoined by the Court, Williamson's unfair  
14 competition activities as described above will continue unabated and will continue  
15 to cause harm to PEP.

16 **FOURTH CLAIM FOR RELIEF**  
17 **COMMON LAW UNFAIR COMPETITION**  
18 **AGAINST DEFENDANT WILLIAMSON**

19 114. PEP repeats and incorporates by reference herein its allegations  
20 contained in the above paragraphs of this Complaint.

21 115. Williamson used and knowingly directly benefited from the use of a  
22 reproduction, counterfeit, or copy of the SOUND CHOICE Marks or the Trade  
23 Dress in connection with the provision of services including karaoke services, by  
24 manufacturing or acquiring the reproduction, counterfeit, or copy of the SOUND  
25 CHOICE Marks or the Trade Dress, and by displaying the reproduction,  
26 counterfeit, or copy of the SOUND CHOICE Marks or the Trade Dress during the  
27 provision of those services.  
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1 116. Williamson's use of the SOUND CHOICE Marks was "in commerce"  
2 within the meaning ascribed by California common law.

3 117. PEP did not license Williamson to make, acquire, or use  
4 reproductions, counterfeits, or copies, or to use the SOUND CHOICE Marks in  
5 connection with the services provided to its commercial establishments.

6 118. Use of the SOUND CHOICE Marks in the manner attributable to  
7 Williamson is likely to cause confusion, or to cause mistake, or to deceive  
8 customers at the venues in which Williamson performs into believing that the  
9 services those customers are receiving are being provided with the authorization of  
10 PEP using bona fide, legitimate, authorized karaoke accompaniment tracks.

11 119. Williamson's acts were willful and knowing.

12 120. PEP has been damaged by infringing activities of Williamson.

13 121. Unless enjoined by the Court, Williamson's infringing activities as  
14 described above will continue unabated and will continue to cause harm to PEP.

15  
16 **FIFTH CLAIM FOR RELIEF**  
17 **TRADEMARK AND TRADE DRESS INFRINGEMENT**  
18 **AGAINST DEFENDANT ROSS**

19 122. PEP repeats and incorporates by reference herein its allegations  
20 contained in the above paragraphs of this Complaint.

21 123. Ross knowingly directly benefited from the use of, and through  
22 Williamson, used a reproduction, counterfeit, or copy of the SOUND CHOICE  
23 Marks in connection with the provision of karaoke entertainment services, by  
24 displaying and permitting to be displayed the reproduction, counterfeit, or copy of  
25 the SOUND CHOICE Marks during the provision of those services.

26 124. Ross' use of the SOUND CHOICE Marks was "in commerce" within  
27 the meaning of the Trademark Act of 1946 as amended.  
28



1        133.        The display of the SOUND CHOICE Marks is also likely to cause  
2 confusion, or to cause mistake, or to deceive those present during the display, in  
3 that those present are likely to be deceived into believing, falsely, that the works  
4 being performed were sold by PEP and purchased by Williamson for use in  
5 providing karaoke entertainment services in a venue of Ross’

6        134.        Williamson’s use of the SOUND CHOICE Marks in this fashion  
7 would have inured to the benefit of PEP if Williamson had legitimately acquired  
8 genuine SOUND CHOICE discs instead of counterfeiting them or acquiring  
9 counterfeit copies, in that PEP would have received revenue from such sales.

10        135.        Because PEP has been denied this revenue, it has been damaged by  
11 Ross’ uses.

12        136.        On each occasion when Ross permitted an accompaniment track  
13 pirated from another manufacturer to be played during a karaoke show, Ross  
14 permitted the display of the words, names, and symbols of the other manufacturer  
15 in connection with Williamson’s karaoke services.

16        137.        The display of these false designations of origin is likely to cause  
17 confusion, or to cause mistake, or to deceive those present during the display, in  
18 that those present are likely to be deceived into believing, falsely, that the pirated  
19 tracks are legitimate, authorized, and authentic materials that Williamson acquired  
20 in a legitimate manner.

21        138.        The display of the false designations of origin is also likely to cause  
22 confusion, or to cause mistake, or to deceive those present during the display, in  
23 that those present are likely to be deceived into believing, falsely, that the works  
24 being performed were sold by those manufacturers and purchased by Williamson.

25        139.        Ross’ use of the false designations of origin in this fashion damages  
26 PEP by enabling Ross, through Williamson, to provide karaoke entertainment  
27 services at a lower cost than persons who acquire those materials legitimately,  
28

1 including PEP's legitimate customers.

2 140. The consequential denial of revenue from a legitimate market for  
3 PEP's customers' services prevents PEP's customers from making purchases of  
4 material from PEP and is thus a denial of revenue to PEP.

5 141. Because PEP has been denied this revenue, it has been damaged by  
6 Ross' false designations of origin relating to other manufacturers.

7 142. Unless enjoined by the Court, Ross' unfair competition activities as  
8 described above will continue unabated and will continue to cause harm to PEP.

9 **PRAYER FOR RELIEF**

10 WHEREFORE, Plaintiff PEP prays for judgment against Williamson and  
11 Ross that the Court:

12 A. Find that Williamson and Ross committed acts of infringement,  
13 including but not limited to counterfeiting, of the federally registered SOUND  
14 CHOICE Marks and of the Trade Dress;

15 B. Find that Williamson and Ross engaged in unfair competition detrimental to  
16 PEP in violation of 15 U.S.C. § 1125(a);

17 C. Enter judgment against Williamson and Ross and in favor of PEP on all  
18 applicable counts;

19 D. Find the activities of Williamson and Ross were in all respects  
20 conducted willfully and for profit;

21 E. Award to PEP the profits of Williamson and Ross and the damages sustained  
22 by PEP because of the conduct of Williamson and Ross in infringing the SOUND  
23 CHOICE Marks, the SOUND CHOICE Trade Dress, or both, or, in the alternative,  
24 statutory damages per trademark infringed by counterfeiting, and in any event in an  
25 amount not less than \$50,000 for each establishment in which the infringement  
26 occurred, and in the amount of \$100,000 from each of the Defendants;

27 F. Award to PEP the profits of Williamson and Ross and the damages sustained  
28

1 by PEP because of Williamson's acts of unfair competition under 15 U.S.C. §  
2 1125(a), and in any event in an amount not less than \$50,000 for each  
3 establishment in which the infringement occurred, and in the amount of \$100,000  
4 from each of the Defendants;

5 G. Award to PEP treble, punitive, or otherwise enhanced damages, as  
6 available, for acts of willful infringement by and in the amount of \$100,000 from  
7 each of the Defendants;

8 H. Grant PEP injunctive relief against further infringement of the  
9 SOUND CHOICE Marks by Williamson and Ross;

10 I. Award PEP its costs, suit and attorney fees, to the extent not awarded above;  
11 and

12 J. Grant PEP such other and further relief as justice may require.

13 DATED: November 16, 2015 LAW OFFICES OF LARRY ZERNER  
14

15  
16 By: Larry Zerner  
17 Larry Zerner  
18 Attorney for Plaintiff  
19 Phoenix Entertainment Partners, LLC  
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DEMAND FOR TRIAL BY JURY

Plaintiff Phoenix Entertainment Partners, LLC pursuant to Rule 38 of the Federal Rules of Civil Procedure hereby demands trial by jury of all issues so triable in the present action.

DATED: November 16, 2015

LAW OFFICES OF LARRY ZERNER

By: Larry Zerner  
 Larry Zerner  
 Attorney for Plaintiff  
 Phoenix Entertainment Partners, LLC